



OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN
Consumer Protection Unit
650 W. State Street, Lower Level
P. O. Box 83720
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Idaho Quarterly Certificate of Escrow Funding Compliance for 2006 Sales

(This form is due 40 days after the end of the quarter indicated)

Please note: This form is for use by Non-Participating Manufacturers that **are required** to make quarterly escrow deposits. Non-Participating Manufacturers reporting annually instead of quarterly, please use the Idaho Certificate of Escrow Funding Compliance form. See the attached instructions for further details regarding which Non-Participating Manufacturers must make quarterly escrow deposits.

Part 1: Non-Participating Manufacturer Identification

Company Name: _____

Physical Address: (street address only; no post office box) _____

Mailing Address (if different from above): _____

Phone: _____ FAX: _____

Email Address: _____ Website Address: _____

Name/Title of Person Completing Certification: _____

Part 2: Quarter Being Reported

The sales year for this Idaho Quarterly Escrow Certificate of Escrow Funding Compliance is the **calendar year 2006**. The quarter being reported is (check one):

- | | |
|-------------------------------------------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> January 1, 2006 – March 31, 2006; | <input type="checkbox"/> April 1, 2006 – June 30, 2006; |
| <input type="checkbox"/> July 1, 2006 – September 30, 2006; | <input type="checkbox"/> October 1, 2006 – December 31, 2006 |

Part 3: Units Sold for Quarter Indicated

Indicate the number of Units Sold (an individual cigarette from a pack that bears an Idaho cigarette tax stamp or .09 ounces of roll-your-own tobacco equals one Unit Sold) by the above-named Non-Participating Manufacturer (Certifying Non-Participating Manufacturer), whether directly or through a distributor, retailer, or similar intermediary or intermediaries for the 2006 quarter indicated in Part 2, and write that amount here:

A. _____

Part 4: Quarterly Escrow Payment Amount

Calculate the appropriate quarterly escrow deposit amount. Multiply the number of Units Sold listed in part 3.A. by \$.0214421 and write that amount here.*

A. _____

The amount in 4.A is the amount that must be deposited on behalf of the State of Idaho in the Certifying Non-Participating Manufacturer’s Qualified Escrow Fund within 30 days of the end of the quarter specified.

Part 5: Financial Institution/Escrow Information

Name of Financial Institution: _____

Authorized Escrow Agent Contact Name and Title: _____

Physical Address: _____ Mailing Address: _____

Phone number: _____ Fax number: _____

Qualified Escrow Account No.: _____ Subaccount No. for Idaho: _____

Attached is a copy of the financial institution’s receipt or other proof of deposit from the Escrow Agent of the proper escrow payment. Pursuant to Idaho Code §39-8403(1)(c)(iv)(3) the Office of the Attorney General requires verification from the financial institution of the amount and date of deposit to be attached.

Part 6: Certification

The Certifying Non-Participating Manufacturer certifies that (initial all four):

_____ It has previously submitted an Idaho Tobacco Product Manufacturer Certificate of Compliance to the Office of the Attorney General. Date submitted: _____

_____ Its Qualified Escrow Fund complies with Idaho Code §§ 39-7802(f) and 39-8403(1)(c);

* Idaho Code § 39-7803(b)(1) requires payments to be “adjusted for inflation.” Idaho Code § 39-7802(a) defines “adjusted for inflation” as cumulative increases “in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.” Each year, this figure increases 3% or the actual inflation rate, which ever is greater. Because the actual inflation rate cannot be determined until the end of 2006, tobacco product manufacturers required to make quarterly escrow payments will be required, in their quarterly escrow payments, to deposit an amount that has been cumulatively adjusted for inflation by 3%. When the adjusted for inflation rate for 2006 has been determined, manufacturers will be advised and then have until April 15, 2007, to deposit any additional money, if necessary, to satisfy the actual adjusted for inflation amount under the Act. The 2006 adjusted for inflation rate, increased by 3%, is 27.98262%. Multiplying the 2006 base escrow deposit amount, \$.0167539, by the adjusted for inflation rate, 27.98262%, equals the cumulative inflation adjustment amount of \$.0046882. Adding the base escrow deposit amount, \$.0167539, to the cumulative inflation adjustment amount, \$.0046882, equals \$.0214421.

_____ Any escrow funds held or to be held in its Qualified Escrow Fund on behalf of the State of Idaho are or will be held in a separate segregated account, separate and apart from escrow funds held on behalf of any other beneficiary; and

_____ There is no security interest, as defined by Idaho Code § 28-1-201(35), that has been granted in or has attached or is otherwise applicable to any escrow funds held or to be held in the Certifying Non-Participating Manufacturer's Qualified Escrow Fund on behalf of the State of Idaho.

Part 7: Authorized Designee and Representation

This document must be signed and dated by an authorized notary public as follows:

Under penalty of perjury, I certify and declare that all of the statements and information contained in this Idaho Quarterly Certificate of Escrow Funding Compliance for 2006 Sales, including attachments, if any, are true, correct, accurate and complete in every particular, and that I am a person authorized to bind, either under the laws of the State of Idaho or of the jurisdiction where the manufacturer resides or is organized, the Certifying Non-Participating Manufacturer making this Certification. Any violation of these requirements is a basis for removal of the Certifying Non-Participating Manufacturer and/or its Brand Families from the Attorney General's Directory of Compliant Tobacco Product Manufacturers and Brand Families.

Date: _____ Authorized Designee: _____ Title: _____

Signature of Designee: _____

City/County: _____. Subscribed and sworn to before me this ___ day of _____, 2006.

Printed Name of Notary Public: _____ Signature of Notary Public: _____

Commission expires: _____ Seal:



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Boise, ID 83720-0010

Phone: (208) 334-2424

**Instructions for Idaho Quarterly Certificate of Escrow Funding Compliance for
2006 Sales**

General Information

Who must file an Idaho Quarterly Certificate of Escrow Funding Compliance?

Any Non-Participating Manufacturer whose Cigarettes (including roll-your-own cigarettes – see definitions on page 2) are sold in the State of Idaho, whether directly or through any distributor, retailer, or similar intermediary, must execute and deliver an Idaho Certificate of Escrow Funding Compliance (Idaho Escrow Certificate) to the Office of the Attorney General. Non-Participating Manufacturers that must submit an Idaho Quarterly Certificate of Escrow Funding Compliance (Idaho Quarterly Escrow Certificate) on a quarterly basis to the Attorney General are Non-Participating Manufacturers who: have not previously established and funded a Qualified Escrow Fund in Idaho; have not made any escrow deposits for more than one year; have failed to make a timely and complete escrow deposit for any prior calendar year; have failed to pay any judgment, including any civil penalty; or have sold more than 1,600,000 of their Cigarettes during a quarter. Additionally, the Attorney General may require quarterly escrow deposits from a Non-Participating Manufacturer if the Attorney General has reasonable cause to believe the Non-Participating Manufacturer may not make its full required escrow deposit by April 15th of the year following the year in which the Cigarettes sales were made. The Idaho Certificate of Escrow Funding Compliance form and information about its applicability are located at:

<http://www.ag.idaho.gov>.

Please note: The Idaho Quarterly Escrow Certificate (or the Idaho Escrow Certificate, as applicable) is in addition to Idaho's Tobacco Product Manufacturer Certificate of Compliance that all Tobacco Product Manufacturers must execute and deliver to the Office of the Attorney General before Cigarettes of the Tobacco Product Manufacturer may be sold in the State of Idaho and annually thereafter. The Idaho Quarterly Escrow Certificate and instructions for completing it are located at the Internet address noted above.

When is the Idaho Quarterly Escrow Certificate due?

The Idaho Quarterly Escrow Certificate must be received on or before 40 days after the end of the quarter indicated.

To whom must the Idaho Quarterly Escrow Certificate be delivered?

Mail the original Idaho Quarterly Escrow Certificate and a complete copy of all supporting documents to:

OFFICE OF THE ATTORNEY GENERAL
Consumer Protection Unit
650 W. State Street, Lower Level
P. O. Box 83720
Boise, ID 83720-0010
Attention: Tobacco Enforcement

Definitions¹

- (a) "Brand Family" means all styles of Cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.
- (b) "Cigarette" has the same meaning given that term in Idaho Code § 39-7802(d).
- (c) "Directory" means the Directory of Compliant Tobacco Product Manufacturers and Brand Families as provided for by Idaho Code § 39-8403(2).
- (d) "Master Settlement Agreement" has the same meaning given that term in Idaho Code § 39-7802(e).
- (e) "Non-Participating Manufacturer" means any Tobacco Product Manufacturer that is not a Participating Manufacturer.
- (f) "Participating Manufacturer" has the same meaning as that term is defined in Section II(jj) of the Master Settlement Agreement and all amendments thereto.
- (g) "Qualified Escrow Fund" has the same meaning given that term in Idaho Code § 39-7802(f).
- (h) "Tobacco Product Manufacturer" has the same meaning given that term in Idaho Code § 39-7802(i).
- (j) "Units Sold" has the same meaning given that term in Idaho Code § 39-7802(j).

¹ Defined terms are capitalized throughout these instructions and the Idaho Quarterly Escrow Certificate.

Specific Instructions

Part 1: **Non-Participating Manufacturer's Identification.** Identify the Non-Participating Manufacturer's name, physical, mailing, email, and Website addresses and telephone and fax numbers. Also identify the name and title of the person completing the Idaho Quarterly Escrow Certificate who will serve as the contact person for the manufacturer.

Part 2: **Quarter Being Reported.** The 2006 quarter must be indicated.

Part 3: **Units Sold for Quarter Indicated** Write the number of Units Sold by the Non-Participating Manufacturer in Idaho for the quarter indicated. A Unit Sold equals an individual cigarette from a pack that bears an Idaho cigarette tax stamp or .09 ounces of roll-your-own tobacco.

Part 4: **Quarterly Escrow Payment Amount.** Multiply the number of Units Sold listed in Part 3.A. by the indicated escrow deposit rate per Unit Sold. This is the deposit to be paid into the Non-Participating Manufacturer's Qualified Escrow Fund for the quarter indicated.

Part 5: **Financial Institution/Escrow Information.** The Non-Participating Manufacturer must identify (i) the name, address and telephone and fax number of the financial institution where it has established a Qualified Escrow Fund; and (ii) the account number of the Qualified Escrow Fund and the sub-account number for the benefit of Idaho. A copy of a receipt or other proof of deposit from the financial institution must be attached to the Idaho Quarterly Escrow Certificate provided to the Office of the Attorney General.

Part 6: **Certification** The Non-Participating Manufacturer must certify four things: (1) it has previously submitted an Idaho Tobacco Product Manufacturer Certificate of Compliance; (2) its Qualified Escrow Fund complies with Idaho Code §§ 39-7802(f) and 39-8403(1)(c); (3) any escrow funds held or to be held in its Qualified Escrow Fund on behalf of the State of Idaho are or will be held in a separate segregated account, separate and apart from escrow funds held on behalf of any other beneficiary; and (4) no security interest, as defined by Idaho Code § 28-1-201(35), has been granted in or has attached or is otherwise applicable to any escrow funds held or to be held in the Certifying Non-Participating Manufacturer's Qualified Escrow Fund on behalf of the State of Idaho.

Part 7: **Authorized Designee and Representation.** The person executing the Idaho Quarterly Escrow Certification must be authorized to bind the Non-Participating Manufacturer identified in Part 1. The authorized designee's name and title must be printed, and the Idaho Quarterly Escrow Certification must be executed in the presence of an authorized notary.